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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.****Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

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**KINCHLOE v. BOUNDS.**

Sept. 9, 1915.

[86 S. E. 110.]

**1. Specific Performance (§§ 39, 41\*)—Contracts Enforceable—Parol Contracts for the Sale of Land.**—A parol contract of sale of real estate must, to justify specific performance, be clear and definite in its terms and established by plain and satisfactory proof and the acts of part performance must refer to, result from, or be made in pursuance of, the contract, and must have been so far executed that a refusal of full execution will operate as a fraud and place him in a situation which does not lie in compensation.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. § 114-123; Dec. Dig. §§ 39, 41.\* 12 Va.-W. Va. Enc. Dig. 624.]

**2. Specific Performance (§ 44\*)—Contracts Enforceable—Parol Contracts for the Sale of Land.**—A parol contract of sale of real estate uncertain only as to price will be specially enforced at the suit of the purchaser where he has fully paid the price as shown by a receipt signed by the vendor and has taken possession in pursuance of the contract, so that all that remains to be done is to invest him with the legal title, as it was the purpose of the vendor to do.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. § 126; Dec. Dig. § 44.\* 12 Va.-W. Va. Enc. Dig. 624.]

Appeal from Circuit Court, Wise County.

Suit by W. B. Bounds against Nora L. Kinchloe. From a decree for complainant, defendant appeals. Affirmed.

*W. S. Mathews* and *Jno. W. Chalkley*, both of Big Stone Gap, for appellant.

*Bond & Bruce*, of Wise, and *W. T. Hudgens*, of Big Stone Gap, for appellee.

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**LITZ et al. v. ROWE et al.**

Sept. 9, 1915.

[86 S. E. 155.]

**1. Partition (§ 17\*)—Intervention—Law Issue.**—Permitting the filing in a suit for partition of a petition, which could have no other

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

effect than to call into requisition the court's judgment on a dispute regarding the title and boundaries of land, is error; courts of equity being without jurisdiction to settle such a dispute, unless there is some peculiar equity.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 53-59; Dec. Dig. § 17.\* 10 Va.-W. Va. Enc. Dig. 773.]

**2. Courts (§ 24\*)—Jurisdiction—Consent.**—No acquiescence or consent can give a court of equity jurisdiction over a controversy belonging exclusively to a court of law.

[Ed. Note.—For other cases, see Courts, Cent. Dig. §§ 76-78; Dec. Dig. § 24.\* 8 Va.-W. Va. Enc. Dig. 860.]

**3. Appeal and Error (§ 882\*)—Invited Error—Jurisdiction.**—That the trial court had no jurisdiction of the subject-matter, so that its decree on the merits was void, may be taken advantage of on appeal, even by the unsuccessful party, who invoked the court's jurisdiction.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3591-3610; Dec. Dig. § 882.\* 1 Va.-W. Va. Enc. Dig. 465.]

**4. Costs (§ 236\*)—Reversal on Appeal—Liability of Appellant.**—Costs will be adjudged against appellants; reversal being merely because the trial court, whose jurisdiction they invoked was without jurisdiction of the subject-matter.

[Ed. Note.—For other cases, see Costs, Cent. Dig. §§ 900-905, 907; Dec. Dig. § 236.\* 3 Va.-W. Va. Enc. Dig. 623.]

Appeal from Circuit Court, Buchanan County.

Petition by G. W. Litz and others against J. J. Rowe and others. From an adverse decree, petitioners appeal. Reversed, with directions.

*M. O. Lits and Greever & Gillespie*, all of Welch, W. Va., and *Ar. A. Skeen*, of Clintwood, for appellants.

*Finney, Stinson & Lindsey*, for appellees.

#### McKINNEY v. TRUSTEES OF MONEY OF EMORY AND HENRY COLLEGE, Inc.

Sept. 9, 1915.

[86 S. E. 115.]

**1. Waters and Water Courses (§ 70\*)—Pollution of Streams—Liability to Lower Riparian Owner.**—The discharge of sewage into a stream is such a pollution thereof as entitles a lower riparian owner to recover damages for the injury thereby inflicted, for the act creates a prima facie nuisance, even when necessary or indispensable.

[Ed. Note.—For other cases, see Waters and Water Courses, Cent. Dig. § 60; Dec. Dig. § 70.\* 4 Va.-W. Va. Enc. Dig. 829.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.